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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,897	10/04/2005	Krister Kumlin	268-104 (AMK)	6269

23117 7590 06/04/2007  
NIXON & VANDERHYE, PC  
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ARLINGTON, VA 22203

EXAMINER
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XAVIER, VALENTINA

ART UNIT	PAPER NUMBER
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3644

MAIL DATE	DELIVERY MODE
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06/04/2007 .

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/551,897	<b>Applicant(s)</b> KUMLIN, KRISTER	
	<b>Examiner</b> Valentina Xavier	<b>Art Unit</b> 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/04/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 3, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Cowsert (US 2,763,088).

#### **With regard to claim 1:**

Cowsert '088 discloses a fishing float (11, 12) including at least two structural members (11, 12, 21, 27), enclosing a cavity (See Fig. 2) having a volume which is variable by means of a relative movement of the structural members, said relative movement resulting in a change of the buoyancy of the float characterized in that the float includes a volume which is intended to be filled with water through an opening (19) when the float is immersed in water, as well as an evacuating duct (17) through which air is intended to flow out of the volume when the water flows in through the opening ("the cylindrical member 21 may be pressed downwardly by one of the fingers of the user to thereby unseat valves 29 and 23, the former allowing water to pass into the float as the case may be through the opening 19 while

the latter will allow the thus displaced air within the float to pass through the opening 17” – Col. 3; Lines 17 – 22).

Furthermore, it has been held that the recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

**With regard to claim 2:**

Cowsert ‘088 discloses that the float’s evacuating duct (17) extends from the upper end of the float to the upper portion of the volume – (See Fig. 15 where reference numerals 17 and 18 are marked. Reference numeral 18 refers to a valve seat, which Examiner considers to be the upper portion of the volume).

**With regard to claim 3:**

Cowsert ‘088 discloses that the evacuating duct (17) and the volume are arranged substantially rotationally symmetrical around the symmetry axis of the float (See Fig. 2 and 8).

**With regard to claims 9 and 10:**

Cowsert ‘088 discloses that the evacuating duct (17) includes an axial duct (formed by the inner walls of elements 11 and 12), extending from the upper end of the float (where

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element 17 beings) to the upper portion of said volume (where valve seat 20 begins), where the axial duct is characterized in that said axial duct extends through the entire length of the float (the inner walls of 11 and 12 extend through the entire length of the float).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Cowsert '088 in view of Hill et al (US 4,202,128).

**With regard to claims 4 and 5:**

The discussion above regarding claim 1 is relied upon.

Cowsert '088 fails to disclose the relative movement including a rotary motion of a first structural member in relation to a second structural member. Hill et al '128 discloses an adjustable float sinker comprising a relative movement including a rotary motion (a threaded plug 16) of a first structural member (16) in relation to a second structural member (11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the relative movement of the structural members from being linear pushing mechanism to a rotary motion having a threaded engagement since the threaded engagement allows the float to have a better watertight seal (Col. 1; Lines 33 – 35).

5. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cowsert '088 in view of Kessler (US 4,561,205).

**With regard to claim 6:**

The discussion above regarding claim 1 is relied upon.

Cowsert '088 fails to disclose the float including a body having a density larger than the density of the structural members. However, Kessler '205 discloses a body (13) having a density larger than the density of the structural members (sinks to the bottom of the body of water due to gravity – See Fig. 6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a body that has a larger density than the density of the structural members as taught by Kessler '205 since this allows the float to maintain a stable position in the water.

**With regard to claim 7:**

The discussion above regarding claim 6 is relied upon.

Cowsert '088 as modified by Kessler '205 fails to disclose that the body (13) is detachable from the remainder of the float. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the body (13) detachable from the remainder of the float, since it has been held that constructing a formerly integral structure in various elements involves only routing skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cowsert '088 in view of Cramsey (US 2004,0020102).

**With regard to claim 8:**

The discussion above regarding claim 1 is relied upon.

Cowsert '088 fails to disclose the float having markings for adjustment of the buoyancy of the float. However, Cramsey '102 discloses an adjustable buoyancy floating fish lure having a set of indicia markings to achieve the level of buoyancy required by the user [0061]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have indicia marking for adjusting the level of buoyancy of the float in order to determine the appropriate buoyancy required to reach the desired feeding depth [0061].

*Conclusion*

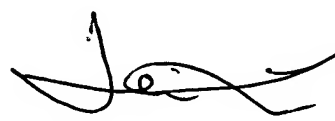
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Valentina Xavier whose telephone number is (571) 272-9853. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (571)272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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